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**ARIZONA ATTORNEY GENERAL**

Honorable Betty Morrison  
Arizona State Senator  
Senate Building, Capitol Complex  
Phoenix, Arizona 85007

Dear Senator Morrison:

This letter is in response to your letter to this office dated April 20, 1976, in which you requested our opinion concerning the qualifications a person must have in order to vote in a school district budget override election held pursuant to A.R.S. § 15-1202.01.

Subsection A of A.R.S. § 15-1202.01 provides, in effect, that persons voting at a school district budget override election shall be "qualified electors of the school district." That same subsection specifies that a majority of the persons voting must approve the override budget for it to become effective. Subsection C of A.R.S. § 15-1202.01 then provides that the election shall be conducted as nearly as practicable in the manner prescribed in Article 1, Chapter 13, Title 15, Arizona Revised Statutes, which relates to school bond elections. Subsections B and C of A.R.S. § 15-1302 (contained in Article 1) provide respectively, in effect, that the persons entitled to vote shall be "qualified electors" and "qualified electors of the district" as defined in A.R.S. § 15-473. Thus, persons having the qualifications specified in A.R.S. § 15-473 are entitled to vote at the budget override election.

Turning then to A.R.S. § 15-473, subsection A thereof provides:

A person who is a qualified elector of the state, and who has been a resident of the school district thirty days immediately preceding the election, is qualified to vote at an election of the school district in which he resides except as provided in subsection D of this section. For the purposes of this



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title, the terms "qualified school elector", "qualified elector", "school elector", or "elector" shall have the qualifications prescribed in this subsection.

Thus, it appears as a general matter that a person desiring to vote in a school district election must satisfy two conditions: First, the person must be a "qualified elector of the state"; and, second, the person must be a resident of the school district for thirty days immediately preceding the election. Subsection D of A.R.S. § 15-473, which requires registration by the fiftieth day preceding the date of the election, is not here applicable, since by its very terms it is limited to certain school districts governing board member elections.<sup>1/</sup>

The definition of a "qualified elector" is set forth in A.R.S. § 16-104, which states that the term means a person 18 or over who is registered to vote and has been a resident of this State for 50 days.<sup>2/</sup> A.R.S. § 16-104, by its very terms, is applicable for any purpose for which qualification is required by law, with certain exceptions not here relevant.

It would thus appear, in the first instance, that a person desiring to vote in a school district budget override election must be 18 and registered to vote, must have been a resident of the State as of the fiftieth day preceding the election, and must be a resident of the school district for thirty days immediately preceding the election. A problem arises, however, concerning the import of subsection C of A.R.S. § 16-107, which states that:

No elector shall vote in a special primary, special general, special recall or other special election unless he has been registered to vote prior to five o'clock p.m. of the fiftieth day

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<sup>1/</sup>The subsection apparently is only applicable in school district governing board member elections in counties having populations of 700,000 or more. See A.R.S. § 15-472.01.A and OP. Atty. Gen. No. 73-44-L.

<sup>2/</sup> A.R.S. § 16-104 does not require that a person has been registered to vote at least 50 days prior to the election (as does A.R.S. § 15-473.D), but only that the person be a resident of the State for 50 days and register (apparently in the school district) prior to voting.

preceding the date of such special election.

This subsection, if it is applicable, obviously requires registration by the fiftieth day preceding the date of the election.

For two major reasons, however, we think that subsection C of A.R.S. § 16-107 does not apply to school district elections. First, the second sentence of subsection A of A.R.S. § 15-473 states, in effect, that, to vote in a school district election, a person need only have the qualifications specified in that subsection. That subsection makes reference to only two qualifications,<sup>3/</sup> neither of which mandates registration by the fiftieth day preceding the election. Second, and perhaps even more importantly, if A.R.S. § 16-107 were applicable to school district elections, subsection D of A.R.S. § 15-473 would be rendered redundant, as both require the same thing--registration by the fiftieth day preceding the election.<sup>4/</sup> Thus, the Legislature must have thought A.R.S. § 16-107 inapplicable.

In summary, it is our opinion that a person desiring to vote in a school district budget override election must be 18 and registered to vote (which can be effected at any time prior to voting), must have been a resident of the State as of the fiftieth day preceding the election, and must have been a resident of the school district for thirty days immediately preceding

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<sup>3/</sup> As previously discussed, the only two qualifications are that the person be a "qualified elector of the State" and has been a resident of the school district thirty days immediately preceding the election.

<sup>4/</sup> Subsection C of A.R.S. § 16-107, which applies to special elections, specifies that a person cannot vote unless registered at least fifty days preceding the special election. Subsection B of A.R.S. § 16-107, which is applicable to general elections, prohibits registration, with an exception not here relevant, after the fiftieth day preceding the general election, until the polls close. In combination with A.R.S. § 16-104, this generally precludes a person from voting unless registered at least fifty days preceding the general election. Thus, the characterization given to a school district governing board member election is not important, as it clearly would fall under either subsection B or C--if A.R.S. § 16-107 were applicable. If it were, however, there would have been no need for subsection D of A.R.S. § 15-473--which became law in 1973 (laws 1973, Chapt. 183, § 3)--after A.R.S. § 16-107 was already in its present form, it having been last amended in 1972 (Laws 1972, Chapt. 218, § 5).

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the election. <sup>5/</sup> Registration by fifty days preceding the election is not required.

Should you have any questions concerning the foregoing, please let us know.

Sincerely yours,



BRUCE E. BABBITT  
Attorney General

BEB:ASK:b

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<sup>5/</sup> The person, of course, also must comply with A.R.S. § 15-473.B (which requires an affidavit to be signed) and have the qualifications prescribed by A.R.S. § 16-101 (which specifies the qualifications necessary to register to vote).